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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,764	06/23/2003	Eddy Lambert	016782-0280	5710
22428	7590	05/16/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			COLE, ELIZABETH M	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,764

Applicant(s)

LAMBERT

Examiner

Elizabeth M. Cole

Art Unit

1771

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 9-11, 21-32, 34, 36, 38 and 41-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-20, 33, 35, 37, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/23/03</u> . | 6) <input type="checkbox"/> Other: ____  |

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1. Applicant's election without traverse of claims 1-8, 12-20, 33, 35, 37, 39 and 40 in the reply filed on 4/19/05 is acknowledged.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-8, 12-20, 33, 35, 37, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0628146 in view of Krupnik et al, U.S. Patent No. 6,298,538. EP '146 discloses a burner membrane for a radiant burner comprising a compressed web of stainless steel fibers. The web has a porosity of about 78-88 percent. The burner is perforated with a series of perforation. The fibers can be formed from shavings. The fibers can have a diameter of 35-150 microns. See example 1. EP '146 differs from the claimed invention because it does not disclose that the web is needled and does not disclose the claimed basis weight. With regard to the basis weight, since the basis weight is directly related to the strength, thickness and porosity of the final product, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the desired basis weight through the process of routine experimentation which produced a finished product having the desired properties. With regard to the needling, Krupnik teaches that needling nonwoven webs formed from metal fibers such as stainless steel fibers produces a stronger product.

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See abstract. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have needled the web of EP '146, in order to produce a stronger fabric.

4. Claims 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP '146 in view of Krupnik as applied to claims above, and further in view of De Bruyne et al, U.S. Patent No. 5,088,919. EP '146 does not disclose coating the fibers with a coating that activates the oxidation of the burner fuel mixture. The fibers can be coated with a material which activates the oxidation of the burner fuel mixture. See col. 4, lines 35-49. It would have been obvious to one of ordinary skill in the art to have coated the fibers of EP '146 with the coating of De Bruyne et al, motivated by the expectation that this would enhance the heat resistance of the fibers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.

  
Elizabeth M. Cole

ELIZABETH M. COLE  
PRIMARY EXAMINER